

FCC MAIL SECTION

Federal Communications Commission

DA 96-1807

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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Amendment of Section 73.202(b), ) MM Docket No. 96-13  
Table of Allotments, ) RM-8740  
FM Broadcast Stations. )  
(Georgetown and )  
Millsboro, Delaware) )

**REPORT AND ORDER**  
**(Proceeding Terminated)**

**Adopted: November 1, 1996**

**Released: November 8, 1996**

By the Chief, Allocations Branch:

1. The Commission has before it for consideration the Notice of Proposed Rule Making, 11 FCC Rcd 1792 (1996), issued in response to a petition filed by Great Scott Broadcasting ("Great Scott"), proposing the substitution of Channel 228B for Channel 228B1 at Georgetown, Delaware, and modification of the license for Station WZBH accordingly. Great Scott also requested reallocation of Channel 228B from Georgetown to Millsboro, Delaware, in accordance with Section 1.420(i) of the Commission's Rules. Great Scott filed comments supporting its proposal. No other comments were received at the Commission.

2. Great Scott states that its proposal complies with Section 1.420(i) of the Commission's Rules. Great Scott contends that its proposal would serve the public interest by providing the community of Millsboro with its first local transmission service. Furthermore, the reallocation would not deprive Georgetown of local service and does not involve the transfer of the station from a rural to an urban area. Great Scott acknowledges that there will be a gain and loss area because it intends to relocate its transmitter. According to Great Scott's supplemental engineering analysis, the gain area created by the new allotment encompasses 1,451 square kilometers and has a population of 36,180 people. The resulting loss area, on the other hand, consists of 613 square kilometers with a population of 16,680 people. The proposed allotment, therefore, would create a net gain of 838 square kilometers and a net population gain of 19,320 people. Great Scott points out that the loss area is well served with a minimum of six and a maximum of ten full-time aural services, while the gain area has a minimum of four and a maximum of twelve full-time aural services. Therefore, portions of the gain area are considered to be underserved. Great Scott affirms that it intends to file an application specifying the operation of Station WZBT as a Class B facility at Millsboro, Delaware, and build the station promptly if its proposal is granted.

3. Based upon the information presented in this proceeding, we believe the public interest would be served by substituting Channel 228B for Channel 228B1 and reallocating the channel from Georgetown to Millsboro, Delaware, since it would result in a preferential arrangement of allotments pursuant to the Commission's change of community procedures. See Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC 4870 (1989), recond. denied in part, 5 FCC Rcd 7094 (1990). Millsboro is located in Sussex County. It is an incorporated community with its own post office, zip code and banks and is listed in the 1990 Census. We believe Millsboro is an independent community deserving of its first local transmission service. Millsboro (population 1,643 people)<sup>1</sup> would receive its first local service, which activates allotment priority (3).<sup>2</sup> This action will not deprive Georgetown (population 3,732 people) of local service as Station WSSR(AM) is licensed to the community. Moreover, as Millsboro is not located within an urbanized area, the reallocation will not result in the transfer of a station from a rural to a larger urban area. The closest urbanized area is Dover, Delaware, which is 35 miles away. Since Great Scott is moving its transmitter site for Station WZBH, there will be a gain and loss area. The loss area at Georgetown contains 21,223 people and covers approximately 516 square kilometers (199 square miles). The gain area at Millsboro contains 49,115 people and covers approximately 1,604 square kilometers (620 square miles). While we carefully evaluate any proposal that would result in the loss of existing service, the loss area of Channel 228B1 at Georgetown is completely covered by a least five full-time reception services and is, therefore, considered to be well served. Therefore, in accordance with section 1.420(g) and (i) of the Commission's Rules, we will modify the license for Station WZBH to specify operation on Channel 228B at Millsboro, Delaware, in lieu of Channel 228B1 at Georgetown, Delaware.

4. Channel 228B can be allotted to Millsboro, Delaware, consistent with the minimum distance separation requirements of section 73.207(b)(1) of the Commission's Rules at Great Scott's site 31.4 kilometers (19.5 miles) south of the community.<sup>3</sup>

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective December 23, 1996, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, to read as follows:

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<sup>1</sup> All population figures are from the 1990 Census.

<sup>2</sup> The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. [Co-equal weight is given to priorities (2) and (3).] See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1992).

<sup>3</sup> The coordinates for Channel 228B at Millsboro are 38-18-53 and 75-13-50.

<u>Community</u>	<u>Channel No.</u>
Georgetown, Delaware	-----
Millsboro, Delaware	228B

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Great Scott Broadcasting for Station WZBH, IS MODIFIED to specify operation on Channel 228B at Millsboro, Delaware, in lieu of Channel 228B1 at Georgetown, Delaware, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

7. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, **if the request is granted**, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Great Scott Broadcasting licensee of Station WZBH, is required to submit a rule making fee in addition to the fee required for the applications to effect the change in community of license and upgrade at Millsboro, Delaware.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning the above, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

**FEDERAL COMMUNICATIONS COMMISSION**

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass media Bureau